

HB

139

SENATE COMMITTEE REPORT

DATE: 3/20/03

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Resources Committee considered CS FOR HOUSE BILL NO. 139(RES)

HB 139 CLOSING CERTAIN LAND TO MINERAL ENTRY

"An Act approving an interim classification by the commissioner of natural resources closing certain land within the Glacier Creek and Winner Creek drainages to new mineral entry; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DNR	3/18/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Keely Jackson</i>	X			
<i>Ben Stump</i>	✓			
<i>John Ryan</i>	✓			
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
CHAIR: <i>[Signature]</i>				

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 139(RES)
(H) Publish Date: 3/19/03

Revision Date/Time (Note if correction): 3/18/2003 Dept. Affected: Natural Resources
Title: Closing Certain Land to Mineral Entry BRU: Minerals, Land & Water Development
Component: Claims, Permits & Leases
Sponsor: Rep. Hawker
Requester: (H) RES Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact associated with implementation of this legislation.

Prepared by: Bob Loeffler, Director Phone 269-8625
Division: Mining, Land & Water Date/Time 3/18/2003
Approved by: Tom Irwin, Commissioner Date 3/18/2003
Agency: Natural Resources

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

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Anchorage, AK 99501
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Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

Committee Substitute for House Bill 139 (RES) Sponsor Statement

Committee Substitute for House Bill 139 (RES) would approve the interim classification in Mineral Closing Order No. 593, Amendment 3. This closing order was reaffirmed by the Commissioner of the Department of Natural Resources last year to close state land in the upper Glacier Creek and Winner Creek drainages near Girdwood to new mineral entry for another ten years. The proposed closure area is 5,740 acres.

For the closure order to remain effective, the legislature must approve its extension by the ninetieth day of session or April 20, 2003. If it is not approved by the ninetieth day, the order will expire.

The purpose of the closure is to allow development plans to move toward development of additional ski facilities. Previous studies have documented the area's terrain as having some of the finest alpine skiing conditions in North America. During the ten-year closure period, the Heritage Land Bank will be looking for solutions that begin this commercial development.

If development does not begin within the ten-year timeframe, the area will reopen to mineral entry on April 3, 2012. If development does begin before April 3, 2012, the land shall remain closed to mineral entry.

The Department of Natural Resources Geologists have concluded that the area has a low potential for economic development in regards to locatable minerals. The area has been primarily identified for recreational mining activities, which are not prohibited under the mineral closing order.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 6, 2003

SUBJECT: House Bill 139 (Work Order No. 23-0644H)

TO: Representative Mike Hawker
Attn: Sara Wright

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. States that the purpose of the act is to approve the interim classification contained in Mineral Closing Order No. 593, Amendment No. 3, issued by the Commissioner of Natural Resources. Finds that the Glacier Creek and Winner Creek Drainages hold significant potential for development of a new four seasons resort in Girdwood, and that closure of those areas to new mineral entry for a ten year period will reserve the land and provide a timeframe for resort development.

Section 2. Closes approximately 5,740 acres in the Glacier Creek and Winner Creek drainages to new mineral entry.

Section 3. Repeals section two of the Act, effectively reopening the 5,740 acres in the Glacier Creek and Winner Creek drainages to new mineral entry.

Section 4. Provides that the repeal in section three of the closure in section two will take effect unless the commissioner of natural resources certifies on or before April 2, 2012 that development of a resort has begun in the closed area.

Section 5. Gives an effective date of April 3, 2012 for the repeal of the closure, if that repeal takes effect under the condition in section four.

Section 6. Gives an immediate effective date for the rest of the Act.

KLK:med
03-257.med

Sec. 38.05.300. Classification of land.

(a) The commissioner shall classify for surface use land in areas considered necessary and proper. This section does not prevent reclassification of land where the public interest warrants reclassification, nor does it preclude multiple purpose use of land whenever different uses are compatible. If the area involved contains more than 640 contiguous acres, state land, water, or land and water area may not, except by act of the state legislature, (1) be closed to multiple purpose use, or (2) be otherwise classified by the commissioner so that mining, mineral entry or location, mineral prospecting, or mineral leasing is precluded or is designated an incompatible use, except when the classification is necessary for a land disposal or exchange or is for the development of utility or transportation corridors or projects or similar projects or infrastructure, or except as allowed under (c) of this section.

(b) [Repealed, Sec. 35 ch 126 SLA 1994].

(c) Notwithstanding (a)(2) of this section, if the commissioner considers it necessary and proper, the commissioner may provide by order for an interim classification that precludes, or designates as an incompatible use, mining, mineral entry or location, mineral prospecting, or mineral leasing. Within 10 days after the convening of each regular legislative session, the commissioner shall transmit to the legislature for consideration all the interim classification orders issued under this subsection during the preceding calendar year. Unless the legislature approves by law an interim classification contained in an order transmitted under this subsection, that order expires on the 90th day of that legislative session or upon adjournment of that session, whichever occurs first. Approval by the legislature of an interim classification satisfies the requirement of (a) of this section for an act of the state legislature.

Representative Mike Hawker

Alaska State Legislature



Session:

State Capitol
Juneau, AK 99801
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800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rainbow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

Memorandum

To: Senator Scott Ogan, Chair
Senate Resources Committee

From: Representative Mike Hawker *MH*

Date: 3/19/2003

Re: Committee Substitute for House Bill 139 (RES)-Closing Certain Land to Mineral Entry

*Senator,
Thank you for hearing
this bill so quickly. This bill
is supported by everyone from
the AK Minors Arm to the
Governor! Zero opposition
in the House.
MH*

I request Committee Substitute for House Bill 139(RES)-"An Act approving an interim classification by the commissioner of natural resources closing certain land within the Glacier Creek and Winner Creek drainages to new mineral entry; and providing for an effective date." be scheduled for a hearing at the earliest possible convenience in the Senate Resources Committee.

Attached to this memo are a copy of the bill, the sponsor statement, sectional analysis and pertinent background information.

If you have any questions, please contact Sara Wright of my staff at 465-6899.

Thank you for your time and consideration.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

FRANK H. MURKOWSKI, GOVERNOR

550 W. 7th Ave., Suite 1070
Anchorage, Alaska 99501-3579

PHONE (907) 269-8600
FAX (907) 269-8904

March 10, 2003

The Honorable Mike Hawker
House of Representatives
State Capitol,
Juneau, Alaska 99801-1182

Dear Representative Hawker:

You asked us to describe the potential economic loss of the mineral value due to the mineral closure proposed for Glacier/Winner Creek area in Girdwood as part of HB 139.

Summary

Though the Mineral Closing Order (MCO) addresses all locatable minerals, the only economic mineral known to be present within the subject area is gold. The gold is located in placer deposits within and along the local creek drainages including Crow, Winner and Glacier Creeks. These placer deposits, however, are currently classified as low potential for economic development due to the low amounts of gold present in assay samples, the extensive historical mining that occurred over the last century, and the limited accessibility of most of the area.

History of Mining Activities in the Glacier Valley

Placer gold was discovered in Crow and Winner Creek in 1896, and mining began in about 1898. Though a minor production of placer gold was realized from activities in Winner Creek, the focus of mining activity was centered on the Crow Creek drainage (outside of the current MCO). Historically, a modest 42,500 ounces of placer gold were produced from Crow Creek (using both placer and lode mining methods), while only 400 ounces were recovered from Winner Creek. There was no documented production from Glacier Creek during that time. The original mining claims in Winner and Glacier Creeks were abandoned sometime during the middle of the last century.

The land remained abandoned until most recent mining claims were staked on federal land in 1985 and 1986. Approximately 135 federal claims were staked within the MCO area, though a portion of these claims overlapped each other. In total about 1,800 acres were staked within the area covered by the MCO. Between 1985 and 1991 these claims remained underdeveloped. The federal claims were used as recreational placer sites. There is no documented production, no royalty, and only annual labor assessments were completed and annual recording fees paid. There were no valid state mining claims filed on these lands as the original MCO was issued before the land was acquired by the state.

In the early 1990's, DNR selected the land within the MCO area from the United States Forest Service for the Municipality of Anchorage. The municipality wanted to expand alpine ski facilities

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

and opportunities in this area. In 1991, the Municipality of Anchorage purchased these federal mining claims within the subject area, including all 135 contained within the MCO. The Municipality purchased the claims so that BLM could convey the land to DNR which, and in turn, reconveyed much of it to the Municipality.

At the time of acquisition in 1992, DNR instituted a 10-year mineral closure for the area in question. Of that amount, approximately 1,000 acres now belongs to the Municipality (primarily the base area), and the remainder to the state (the upper slopes). There are a few remaining federal mining claims located adjacent to the MCO area along Crow Creek. These remaining mining claims have little economic production and continue to complete only minimal annual assessment work and pay annual rentals. DNR's Turnagain Arm Area Plan and the MOA's Girdwood Area Plan currently identify this area as having potential for recreational gold mining.

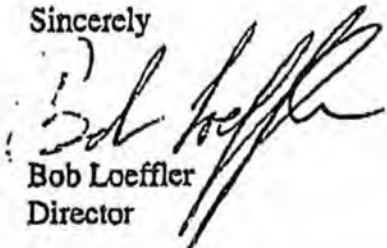
DNR Geologists have determined that the Glacier and Winner Creek area's mineral potential is limited to placer deposits and further have characterized these deposits as low potential or value for mineral development. This is supported by a study completed by United State Bureau of Mines in 1982 citing samples ranging from only 0.0283 oz. of gold per cubic yard at the mouth of Winner Creek to just trace amounts in the creek's upper reaches. In part because of this data, the area was identified as having potential only for recreational mining activities. Recreational mining is not prohibited by the MCO and is in fact has been the principle use of mining claims in this area for decades.

The area encompassed by the MCO includes a total of 5,740 acres. However, any placer gold deposits will be limited to those locations within and along the creeks and rivers beds where the hydrologic forces have concentrated the material. We estimate that valid mining claims could be located on approximately 1,800 acres, similar to the acreage covered by the original claims. State mining claims are typically 40 acre in size and assuming that all the drainages were to be efficiently and completely staked the MCO area would yield approximately 45 potential claims.

Given the limited mineral potential of these creeks, the major effect of closing the area to mineral location is to deprive the state of the annual revenues generated by claim rental. (We do not anticipate that any claim within this area could generate sufficient net profit to yield royalty or tax revenues.) Rent would be \$40 per claim. Thus, the state could potentially loose out on \$400 per claim or \$18,000 over the life of the 10 year term of the MCO.

Please let me know if you need any additional information.

Sincerely

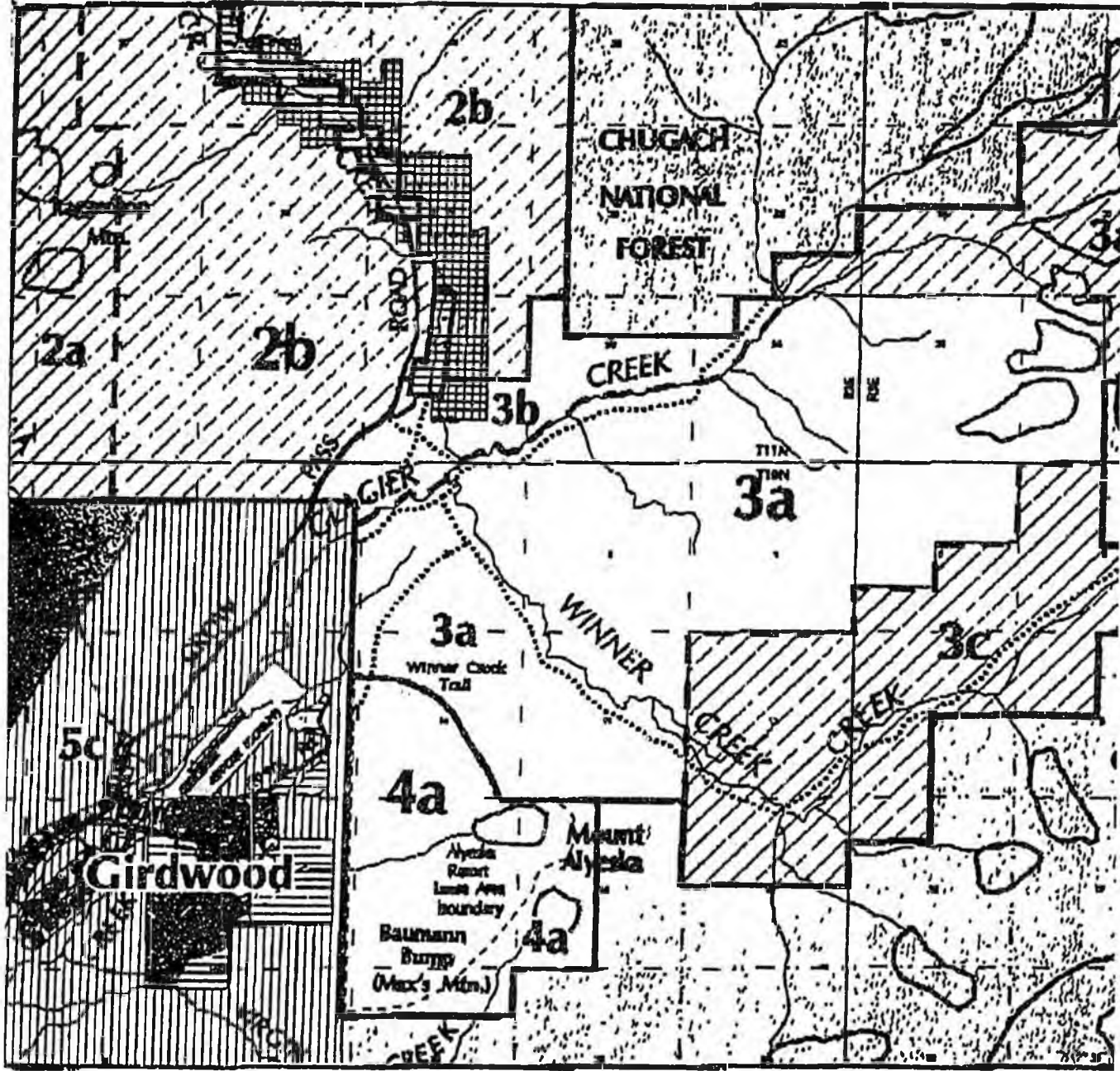


Bob Loeffler
Director

cc: Art Eash, Heritage Land Bank
Janet Burleson-Baxter, DNR Legislative Liaison



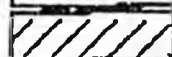




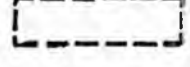
Management Unit 3.




Glacier/Winner Cree



Plan boundaries  Management Unit boundary  Subunit boundary

Land Ownership & Uses

	State owned		Private
	State selected		Chugach State Park
	State selected and Federal mining claims		Chugach National Fore
	Municipal owned		Alyeska Resort Lease /

Map features  Road  Trail  Glacier/Ice

SCALE IN MILES 

1 **LAND USE SUMMARY CHART**

2

3 **Land-Use Designation Summary**

4 **Management Unit 3: Glacier/Winner Creek**

5

Subunit	Surface Land Use Designation	Subsurface	Prohibited Surface Use	Comments
6 7 8 9 3a Glacier/ Winner Creek 5,750 acres	Commercial recreation	Closed*	Land disposals	Part of this subunit may be conveyed to the Municipality of Anchorage
10 11 12 13 3b North side of Glacier Creek 650 acres	Public recreation	Closed*	Commercial recreation leasing Land disposals	Part of this subunit may be conveyed to the Municipality of Anchorage
14 15 16 17 3c Upper Winner Creek 2,300 acres	Public recreation, Wildlife habitat	**	Land disposals	State-selected

18 *Closed to mineral entry for 10 years from date of conveyance of land to state.

19

20 **Management decisions to be made when DNR is ready to take conveyance

21

22



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd. #202 Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

March 11, 2003

Honorable Hugh Fata
Chairman
House Resources Committee
Capitol Building
Juneau, AK 99801

RE: HB-139, Closing Areas of Glacier Creek and Winner Creek near Girdwood

Dear Representative Fata,

I am writing in support of a proposed Committee Substitute to House Bill 139. This Bill will approve a mineral closure on certain lands within the Glacier Creek and Winner Creek drainages near Girdwood. This closure is reasonable and appropriate to support development of an expanded ski area.

The proposed Committee Substitute conforms the bill with the mineral closure that was previously published by the Department of Natural Resources. The mineral closure properly requires that, if the recreational development does not occur within 10 years, the mineral closure goes away automatically. Our concern is that lands not be permanently closed to mineral entry in the case that the ski area is not developed.

We support passage of HB-139 as amended by the Committee Substitute.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Honorable Mike Hawker

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- 400 WILLOUGHBY AVENUE
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- 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

March 3, 2003

The Honorable Mike Hawker
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

RE: Glacier/Winner Creek

Dear Representative Hawker:

I wanted to take this opportunity to express the Department of Natural Resources' (DNR) full support for HB139 which would temporarily close the Glacier-Winner Creek area in Girdwood to mineral entry. This area has long been recognized as prime for the development of a new alpine ski area: a complement or addition to the existing Alyeska Resort. The closure is key to preserving the marketability of the property as a future ski facility.

In the early 1990's, DNR selected the land for this purpose from the United States Forest Service. The Municipality of Anchorage expended \$395,000 purchasing federal mining claims so that the land could be conveyed to DNR which, in turn, reconveyed much of it to the Municipality. In 1992, DNR instituted a 10-year mineral closure for 5,740 acres in question. Of that amount, approximately 1,000 acres belongs to the Municipality (primarily the base area), and the remainder to the state (the upper slopes). The 10-year term was to give the resort a chance to develop but to ensure that if the resort never developed, the mineral values would not be lost. The mineral closing order was to sunset in April 2002.

Though it is true that no proposals or development has occurred within the proposed area since 1992, recently there has been a resurgence of interest in expanding the ski facilities. The Municipality of Anchorage is preparing to re-market the property and has approached DNR to work with it to update the feasibility study, and a Request for Proposals for the ski area itself. The proposed ten year term of the mineral closure is appropriate due to the complex nature of this multi-year development project, the need for certainty by developers and financial institutions in seeking financing, and the time is needed by the Municipality and developers to market and develop a final proposal.

Rep. Hawker
March 3, 2003

In 1994, the legislature amended AS 38.05.300. The revised statute provides that a mineral closing order greater than 640 acres expires unless approved by the legislature before the 90th day of the session. DNR extended the MCO for another 10 years, until April 2012, pending legislative approval. Passage of your bill would provide that needed approval.

The proposal is also supported by the Municipality of Anchorage, the Girdwood Board of Supervisors, and Alyeska Ski Resort's parent company.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas E. Irwin', with a long horizontal flourish extending to the right.

Thomas E. Irwin
Commissioner



Municipality of Anchorage

Office of the Mayor

George P. Wuerch, Mayor



March 14, 2003

The Honorable Mike Hawker
House of Representatives
State Capitol
Juneau, AK 99801-1182

Re: HB 139 (Mineral closing order for upper Girdwood Valley)

Dear Representative Hawker:

Thank you very much for sponsoring HB 139, which would approve the interim classification in Mineral Closing Order No. 593, Amendment 3. This order was affirmed by the Commissioner of the Department Natural Resources last year to close state land in the upper Glacier Creek and Winner Creek drainages near Girdwood to new mineral entry for another ten years.

We are very pleased this legislation is supported by the Governor, the Girdwood Board of Supervisors and the Alaska Miners Association. The purpose of the closure is to allow the Municipality of Anchorage and the State of Alaska to pursue development concepts and plans for the Glacier-Winner Creek area as an alpine ski resort complex. Previous studies have documented the area's terrain as having some of the finest alpine skiing conditions in North America. During the ten-year period, the Heritage Land Bank will be looking for solutions that allow for early development of some of this area.

Fortunately, DNR geologists have concluded that the area has a low potential for economic development of minerals. The area has been primarily identified for recreational mining activities, which are not prohibited under the mineral closing order.

We believe the proposed ten-year closure is a reasonable period of time to determine the area's marketability and to get development well underway. During 2003, we intend to update the earlier development concepts and issue a request for proposals for a prime developer.

We know you are aware of the requirement to pass this legislation by April 20, 2003 (the 90th day of the session), or the interim order will expire. We thank you for your support, and offer our assistance in your efforts.

Sincerely,

George J. Canelos
Executive Director, Heritage Land Bank



Municipality of Anchorage

Office of the Mayor

George P. Wuerch, Mayor



December 30, 2002

The Honorable Frank Murkowski
Governor, State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

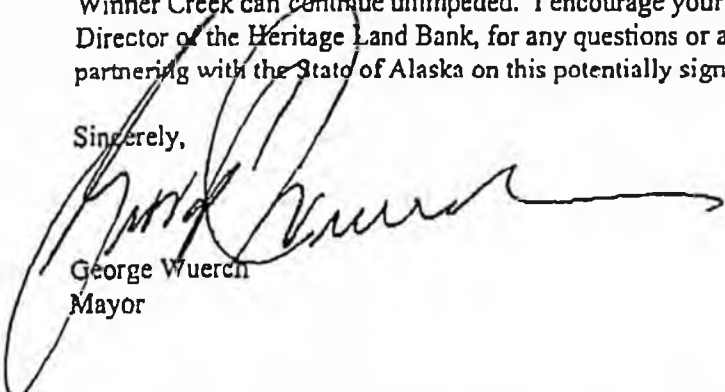
Dear Governor Murkowski,

The Municipality of Anchorage and the State of Alaska have long recognized the enormous potential of the Glacier-Winner Creek area in Girdwood as the next major alpine ski development in the Girdwood Valley. Previous studies have documented the area's terrain as having some of the finest alpine skiing conditions in North America. During 2003, the Heritage Land Bank will be updating market and feasibility studies, looking for win-win solutions that allow for early development of some of this area.

A key step in allowing development plans to move forward is the continuation of the State's Mineral Closing Order for the area, that was administratively reaffirmed last year by the Department of Natural Resources (letter attached). For this order to remain effective, however, the State must obtain the Legislature's approval to extend the order for another ten year period. AS 38.05.300 calls for the Commissioner of DNR, through the Division of Mining, Land and Water to introduce legislation to extend the order within the first ten (10) days of the new session. Unless the Legislature approves continued closure within the first ninety (90) days of the session, the order will expire.

I am requesting your help to ensure this important opportunity for continued planning for Glacier-Winner Creek can continue unimpeded. I encourage your staff to contact George Canelos, Director of the Heritage Land Bank, for any questions or assistance. We look forward to partnering with the State of Alaska on this potentially significant development opportunity.

Sincerely,



George Wuerch
Mayor

cc: Marty Rutherford, Acting Commissioner, Department of Natural Resources

attachments: copy of Statute
letter from DNR announcing the mineral closing

January 31, 2003

Governor Frank Murkowski
State of Alaska
C/o Mr. Mike Tibbles
Legislative Director

VIA FACSIMILE 907-465-3147

Dear Governor Murkowski:

On behalf of Alyeska Resort, Girdwood 2020, the Municipality of Anchorage, we appreciate your strong support and legislation of the mineral closing order for the Glacier-Winner Creek area.

The area is managed by the state (DNR) and has over 4,000 acres of potential ski terrain (4 times the size of Alyeska) and 5,000 vertical feet (2 times the size of Alyeska).

There is a lot of history on this area and Mike Sullivan from the DNR office in Anchorage at 907-269-8566 is the expert on this land.

We understand there is no opposition from the mining community.

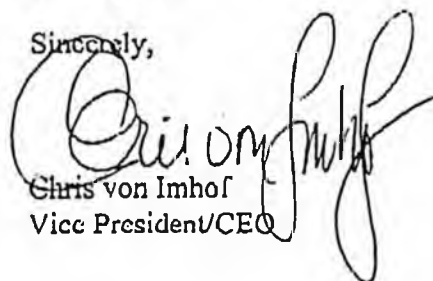
Attached are letters from Mayor George Wuerch to Governor Frank Murkowski, and from former Governor Tony Knowles to Mayor Wuerch. I am also including additional background information, a letter from the Girdwood 2020 and a news article.

The area could eventually be the largest ski area in the USA.

Thank you for your support and please let me know if you need more information.

Thank you.

Sincerely,



Chris von Imhof
Vice President/CEO

P.O. Box 249

GIRDWOOD, ALASKA 99567

TELEPHONE (907) 754-1111

FAX (907) 754-3300



CC: Mr. Mike Sullivan, Natural Resource Manager, State of Alaska, DNR
Mr. Per Bjorn-Roli, Chair, Girdwood 2020



Municipality of Anchorage

George P. Wuerch, Mayor



Girdwood Board of Supervisors

P.O. Box 390 • Girdwood, Alaska 99587

March 17, 2003

Representative Mike Hawker
Alaska State Legislature
Juneau, Alaska
VIA FACSIMILE 907465-4979

RE: Girdwood Board of Supervisors Support for HB 139

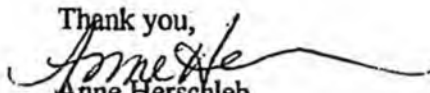
Dear Representative Hawker,

The Girdwood Board of Supervisors (GBOS) is in full support of HB 139.

In February of 2002, the GBOS, in our comment on the Municipality of Anchorage's Heritage Land Bank Annual Work Plan, raised concern about the mining moratorium on the lands of the Glacier/Winner Creek valley. Our concern was to have the moratorium continue for a long enough period of time that a study of the economic development potential of the area can be conducted. HB 139 permits the study process to go forward.

We appreciate the time you and your staff have put forth on our behalf with this bill.

Thank you,



Anne Herschleb
Chair

MEMORANDUM**State of Alaska****DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING LAND & WATER
SOUTHCENTRAL REGION, LAND SECTION**

TO: Pat Pourchot
Commissioner

DATE: September 10, 2001

THRU: Bob Loeffler *BL*
Director, DMLW

TELEPHONE NO.: x8566

THRU: Rick Thompson *RT*
Regional Manager

FROM: Mike Sullivan *MS*
Natural Resource Manager

SUBJECT: Girdwood Area Mineral
Closing Order Extensions

Attached for your signature is a decision extending an existing mineral closure for certain state lands in the upper Girdwood valley. These properties were originally closed to mineral entry when the Turnagain Arm Management Plan was being prepared in 1992. As detailed in the attached decision this closure was intended to facilitate development of the area as four season resort.

For the reasons detailed in the attached decision, the enclosed mineral orders have been prepared to extend this closure for another ten (10) year period.

Please sign the decision and the attached mineral orders where indicated. Please call me if you have any questions.

Pat,
Good to go!
All the coordination
was done. I sat on it
in error.
- Bob



**DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGION**

MINERAL CLOSING ORDER 593 Amend. #3

Closing Lands to Mineral Entry Opening Lands to Mineral Entry

- I. **Name: Glacier/Winner Creek Drainage**
- II. This mineral closing order is based upon the attached Finding for Mineral Closing Order No. 593 Amendment # 3 and the written documentation contained in:

Mineral Closing Order No. 593 Amendment # 3 casefile.

- III. Legal Description:

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 9: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, SE1/4NE1/4, N1/2NE1/4SE1/4,

E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4, NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 6: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road, SE1/4 excluding mining claim recordations AA 56282 and AA 56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

Section 36: All, excluding the NW1/4NW1/4

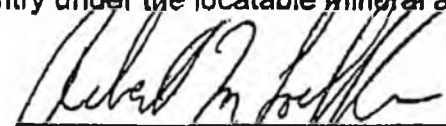
February 4, 2002
MCO 593 Amend. #3
Page 2 of 2

Township 11 North Range 3 East
Section 31: All
Section 32: W1/2

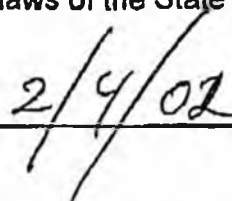
Totaling approximately 5,740 acres

IV. This order is subject to valid existing rights, easements and reservations and is issued under the authority granted by AS 38.05.185-38.05.275 to the Department of Natural Resources. The above described lands are hereby closed to entry under the locatable mineral and mining laws of the State of Alaska.

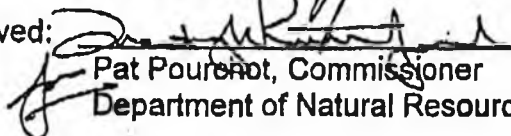
Concur:


Robert M. Loeffler, Director
Division of Mining, Land and Water

Date:



Approved:


Pat Pourbaire, Commissioner
Department of Natural Resources

Date:





**DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGION**

MINERAL OPENING ORDER 603 Amend.#3

___ Closing Lands to Mineral Entry ___X___ Opening Lands to Mineral Entry

I. Name: Glacier/Winner Creek Drainage

- II. This mineral closing order is based upon the attached Finding for Mineral Opening Order No. 603 Amend.#3 and the written documentation contained in:

Mineral Opening Order No. 603 Amendment #3 casefile.

III. Legal Description:

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 9: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, SE1/4NE1/4, N1/2NE1/4SE1/4,

E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4, NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 6: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road, SE1/4 excluding mining claim recordations AA 56282 and AA 56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

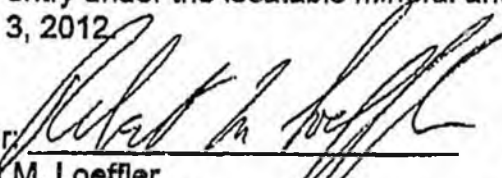
February 4, 2002
MOO 603 Amend. #3
Page 2 of 2

Township 11 North Range 2 East (con't)
Section 36: All, excluding the NW1/4NW1/4

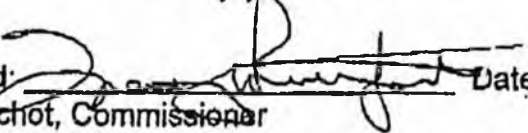
Township 11 North Range 3 East
Section 31: All
Section 32: W1/2

Totaling approximately 5,740 acres

IV. This order is subject to valid existing rights, easements and reservations and is issued under the authority granted by AS 38.05.185-38.05.275 to the Department of Natural Resources. The above described lands will reopen to entry under the locatable mineral and mining laws of the State of Alaska on April 3, 2012.

Concur: 
Robert M. Loeffler
Director, Division of Mining, Land & Water

Date: 2/4/02

Approved: 
Pat Pourchot, Commissioner
Department of Natural Resources

Date: 2/6/02

Finding Of The Commissioner

Mineral Closing Orders 593, 593 Amendments #1 and 3
Mineral Opening Orders 603 and 603 Amendments #1 and 3

AS 38.05.185(a)

Background: In April and December of 1991 then Commissioner of the Department of Natural Resources, Harold Heinze, authorized the closing to mineral entry of approximately 10,000 acres of state and municipal land in the upper Girdwood valley. This action was taken during the formulation of the Turnagain Arm Management Plan in response to a request from the Anchorage Assembly and to preclude the staking of new mining claims in the area under consideration for the establishment of a new ski resort. Prior to these lands being conveyed to the state from the federal government numerous claims were purchased by the Municipality of Anchorage so these mineral interests would not hinder resort development. Because of the uncertainty that a resort would be developed and the desire of the mining industry to see these potentially valuable mineral properties not be permanently closed, mineral opening orders were also adopted that would reopen the lands ten (10) years from the date the property was transferred to state ownership from the federal government. At that time a ten (10) term was believed adequate to reach a decision on future resort development. This timeframe has since proven to be insufficient. The winter tourism market has not expanded as quickly as hoped and a private developer has yet to step forward to pursue resort development in the upper valley.

The first acreage received by the state subject to these mineral closing orders (MCO's) and mineral opening orders (MOO's) was transferred in April of 1992. Title to other properties subject to these orders was received in April and September of 1993. Therefore some of these lands will reopen to mineral entry in April of 2002 and others in April and September of 2003. There were also several sections of land and portions of land in Townships 11N Ranges 2 and 3 East and one other small piece of land in Township 10N Range 3 East for which title has not yet been transferred. This proposed mineral closure extension will not apply to this acreage and the terms of the original closure orders will remain unchanged, i.e. the closure will remain in place for 10 years after the date of title transfer as provided in the original closure orders.

Lands not yet conveyed to state ownership and therefore not included in this extension are described as follows:

Seward Meriujan
Township 10 North Range 2 East
Section 4: N1/2N1/2 all land lying west of the Crow Creek Road

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
Page 2 of 5

Township 10 North Range 3 East
Section 5: NW1/4NW1/4
Township 11 North Range 2 East
Section 25 S1/2SE1/4
Section 27 All
Section 33 All land lying north and west of Crow Creek Road
Section 34 N1/2, SW1/4 all land lying west of Crow Creek Road
Township 11 North Range 3 East
Section 20 SE1/4
Section 21 W1/2SW1/4
Section 28 W1/2W1/2
Section 29 All
Section 30 S1/2
Section 32 NE1/4
Section 33 NW1/4NW1/4

As stated in the 1991 finding of the commissioner, if the properties are open to mineral entry and claims are staked, it would interfere with the ability of a private developer to obtain funding for a future resort. There also is concern that mineral development could hinder the construction of lifts and ski runs and impact the aesthetics of the future resort area.

In March of 2001 a notice was distributed to the Municipality of Anchorage, Girdwood Board of Supervisors, Department of Fish and Game, Alaska Miner's Association and local residents requesting comment on a proposed extension of the closure to mineral entry. Reviewers were asked to comment on an extension of the mineral closing order and whether that extension should be for another ten (10) year term or be an indefinite extension until such time as a final decision is reached on future resort development. In response to this request the following comments were received:

- ADFG & ADOT had no comments or objections to a proposed extension of the closure to mineral entry;
- Municipality of Anchorage proposed extending the mineral closure for an additional 10 years;
- Girdwood Board of Supervisors commented that an indefinite closure was preferred to avoid a situation where a deadline was missed and the property reopened to mineral entry.
- Girdwood 2020 organization previously suggested the closure be extended for an additional five (5) years.
- Alaska Miners Association maintains their longstanding position that a sunset date is necessary to ensure due diligence on behalf of the parties who requested the closing order. A sunset date also affirms the agreed upon temporary nature of the closure in the absence of the development the closing orders were created to facilitate. An indefinite extension with an agreement to revisit the issue at some

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
Page 3 of 5

future time provides little or no assurance that the lands will be reopened to mineral entry if resort development does not occur. AMA supports a ten (10) year extension.

- Alyeska Resort staff commented that an automatic opening could result in a missed deadline that would reopen the land to mineral entry. The staking of new mining claims would then either bar new surface development or hold that development hostage for an unreasonable amount of money to purchase the claims. The resort would not like to see a repeat of the circumstances that occurred when the land was transferred from federal to state ownership. AMA could request the land be reopened to mineral entry at any time thereby initiating a review process to consider their request.

Concerns were also expressed that a mineral closure not interfere with gravel mining or preclude the establishment of a tourist gold panning business within the area closed to mineral entry. A mineral closure under AS 38.05.185 will not preclude either of these possible future uses.

Recommended Action: The subject mineral closing orders and mineral opening orders and their amendments will be extended for a ten (10) year period to allow additional time to evaluate development options for a ski resort in the upper Glacier Creek valley. As the original closure and opening orders were tied to the date title was received from the federal government and because title to these properties was received on three separate dates (April 3, 1992 and April 1, 1993 and September 8, 1993), it is recommended that all land currently owned by the state reopen to mineral entry on the same date to limit confusion about the exact date of future openings. Therefore it is recommended that all the property subject to this decision reopen to mineral entry on April 3, 2012.

Rationale: There is no disagreement among the affected parties in regards to the most important issue of keeping these lands closed to mineral entry so that the land remains free of third party interests that might preclude future development. Both state and municipal land use plans for the area have identified ski resort development as the preferred use of this property and it is the priority of this department to ensure the management intent of these plans does not change. The only dispute is in regards to the length of this closure. While at least one party has proposed a shorter duration, an additional ten (10) years is a compromise that will allow further time to evaluate resort development options and avoid a prolonged debate or appeal process that could extend beyond the existing scheduled mineral opening.

This proposed course of action was presented to all those who commented on this issue via an April 13, 2001 email and no further comments or objections were received. The reviewers never formally considered the suggestion that the opening dates be consolidated but the recommended date provides for a 10 year extension and will be easier to track than the three separate dates that resulted from the original closure/opening

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
Page 4 of 5

orders. This is a minor change that does not affect the agreements reached during review of this proposed action.

Formal public notice in accordance with AS 38.05.945 was conducted beginning on June 29, 2001 and ending on July 31, 2001. Advertisements were placed in the Anchorage Daily News and the Turnagain Times. Notices were posted in the Girdwood Post Office and the State of Alaska's public notice web page. Notices were directly mailed to all those who commented earlier in the review process. In response to this formal public notice three (3) additional written comments were received. All three written comments supported an extension of the mineral closure.

Decision: It is my decision that, in accordance with AS 38.05.185(a), that the best interests of the State of Alaska are served by extending for a ten year term the mineral closing/opening orders and amendments referenced above. It is also my finding that the related mineral opening orders and amendments listed above reopen the land to mineral entry on April 3, 2012. This will be accomplished by completing a third amendment to these orders specifying the properties subject to this extension. This third amendment will also exclude the acreages that are not affected by this extension because the land has yet to be conveyed to the state. These properties are described above in paragraph 2 of the background section.

Only state owned lands are affected by this extension, Amendment # 3 of MOO 603 and MCO 593. They are described as follows:

Seward Meridian

Township 10 North 2 East

Sections 1-3: All

Section 4: N1/2NE1/4 east of Crow Creek Road, and those portions of SE1/4NE1/4 and E1/2SE1/4 within Chugach National Forest

Section 9: E1/2NE1/4NE1/4 within Chugach National Forest

Section 10: N1/2N1/2, N1/2NE1/4SE1/4NW1/4,
N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, SE1/4NE1/4,
N1/2NE1/4SE1/4, E1/2SW1/4NE1/4SE1/4, SE1/4NE1/4SE1/4,
NE1/4SE1/4SE1/4

Section 11: All

Township 10 North Range 3 East

Section 6: N1/2, N1/2SW1/4

Township 11 North Range 2 East

Section 33: SE1/4SE1/4 All land lying SE of Crow Creek Road

Section 34: SW1/4 All land lying East of Crow Creek Road,
SE1/4 excluding mining claim recordations AA 56282 and AA
56283 and FS Special Use Permit granted to Crow Creek Inc.

Section 35: All, excluding the N1/2NE1/4, NE1/4NW1/4

Section 36: All, excluding the NW1/4NW1/4

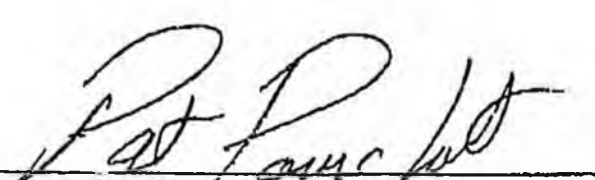
Township 11 North Range 3 East

September 10, 2001
Commissioner's Decision Girdwood Valley Mineral Orders
Page 5 of 5

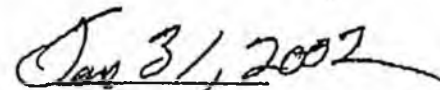
Section 31: All
Section 32: W1/2

Totaling approximately 5,740 acres

Appeal: This is the final administrative order and decision of the department for purposes of an appeal to Superior Court. A person adversely affected by this final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) first request reconsideration of this decision, in accordance with AS 44.37.011 and 11 AAC 02.020, to Pat Pourchot, Commissioner, Department of Natural Resources, 550 W 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. Any such request for reconsideration must be received at that address, or received by being faxed to 1-907-269-8918, within 20 calendar days after the date of "delivery" of this decision, as defined by 11 AAC 01.040(c) and (d). Failure of the commissioner to act on a request for reconsideration within 30 days after delivery of this decision is a denial of reconsideration and is also a final administrative order and decision for purposes of an appeal to Superior Court. It may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. This decision goes into effect 30 days after delivery unless the commissioner first orders reconsideration.



Pat Pourchot, Commissioner
Alaska Department of Natural Resources



Date